

Senate Bill No. 266

Passed the Senate August 28, 1998

Secretary of the Senate

Passed the Assembly August 13, 1998

Chief Clerk of the Assembly

This bill was received by the Governor this ____ day
of _____, 1998, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to amend Sections 10089.40 and 10089.84 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 266, Rosenthal. Earthquake Insurance.

Existing law provides for creation of the California Earthquake Authority, which is authorized to transact insurance for the purpose of selling policies of basic residential earthquake insurance, as specified.

Existing law provides that policyholders who have retrofitted their homes to withstand earthquake shake damage according to specified standards shall enjoy a premium discount or credit of not less than 5% on the authority-issued policy of residential earthquake coverage, as long as the discount or credit is determined actuarially sound by the authority.

This bill would provide that those policyholders shall enjoy a premium discount or credit of 5%, as specified, and would authorize the authority's governing board to approve a larger credit or discount if it is actuarially sound.

Existing law establishes an earthquake mediation program, and provides that those provisions would become inoperative on July 1, 1998.

This bill would permit the program to remain operative until January 1, 2000.

The bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 10089.40 of the Insurance Code is amended to read:

10089.40. (a) Rates established by the authority shall be actuarially sound so as to not be excessive, inadequate, or unfairly discriminatory. Rates shall be established



based on the best available scientific information for assessing the risk of earthquake frequency, severity, and loss. Rates shall be equivalent for equivalent risks. Factors the board shall consider in adopting rates include, but are not limited to, the following:

(1) Location of the insured property and its proximity to earthquake faults and to other geological factors that affect the risk of earthquake or damage from earthquake.

(2) The soil type on which the insured dwelling is built.

(3) Construction type and features of the insured dwelling.

(4) Age of the insured dwelling.

(5) The presence of earthquake hazard reduction factors, including those set forth in subdivision (a) of Section 10089.2.

(b) (1) If scientific information from geologists, seismologists, or similar experts that assesses the frequency or severity of risk of earthquake is considered in setting rates or in arriving at the modeling assumptions upon which those rates are based, the information may be used to establish differentials among risks only if the information, assumptions, and methodology used are consistent with the available geophysical data and the state of the art of scientific knowledge within the scientific community.

(2) Scientific information from geologists, seismologists, or similar experts shall not be conclusive to support the establishment of different rates between the most populous rating territories in the northern and southern regions of the state unless that information, as analyzed by experts such as the United States Geological Survey, the California Division of Mines and Geology, and experts in the scientific or academic community, clearly shows a higher risk of earthquake frequency, severity, or loss between those most populous rating territories to support those differences.

(3) It is not the intent of the Legislature in adopting this subdivision to mandate a uniform statewide flat rate for California Earthquake Authority policies.



(c) The classification system established by the board shall not be adjusted or tempered in any way to provide rates lower than are justified for classifications that present a high risk of loss or higher than are justified for classifications that present a low risk of loss.

(d) Policyholders who have retrofitted their homes to withstand earthquake shake damage according to standards and to the extent set by the board shall enjoy a premium discount or credit of 5 percent on the authority-issued policy of residential earthquake coverage. For residential dwellings, the 5-percent discount shall be applicable if the dwelling, at a minimum, meets the following requirements: the dwelling was built prior to 1979, is tied to the foundation, has cripple walls braced with plywood or its equivalent, and the water heater is secured to the building frame. For mobilehomes, the 5-percent discount shall be applicable if the mobilehome, at a minimum, is reinforced by an earthquake resistant bracing system certified by the Department of Housing and Community Development. The board may approve a premium discount or credit above 5 percent, as long as the discount or credit is determined actuarially sound by the authority.

(e) All rates shall be approved by the commissioner prior to their use.

SEC. 2. Section 10089.84 of the Insurance Code is amended to read:

10089.84. This chapter shall remain in effect until January 1, 2000, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2000, deletes or extends that date. Any case referred to mediation by the department prior to January 1, 2000, shall be mediated under this chapter whether or not the mediation has been completed prior to January 1, 2000. No later than August 1, 1998, the commissioner shall report to the Governor and the Legislature on whether the pilot program should be extended, expanded, terminated, or otherwise modified and shall include specific findings regarding the use of the program by insureds and insurers.



SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the Department of Insurance to continue without disruption to provide mediation services to Northridge earthquake victims who are policyholders seeking resolution of outstanding issues on claims through mediation instead of costly litigation, and to clarify other issues relating to earthquake insurance, it is necessary for this act to take effect immediately.

Approved _____, 1998

Governor

